

H.J.R. 61

78th LEGISLATURE—REGULAR SESSION

BE IT RESOLVED BY THE Legislature of the State of Texas:

SECTION 1. Article III, Texas Constitution, is amended by adding Section 52i to read as follows:

Sec. 52i. (a) A municipality may donate surplus equipment, supplies, or other materials used in fighting fires to the Texas Forest Service or to a successor agency authorized to cooperate in the development of rural fire protection plans.

(b) The Texas Forest Service or the successor agency may, based on need, redistribute to rural volunteer fire departments the equipment, supplies, or materials donated under Subsection (a).

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 4, 2003. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing municipalities to donate surplus fire-fighting equipment or supplies for the benefit of rural volunteer fire departments."

Passed by the House on April 9, 2003: Yeas 142, Nays 0, 1 present, not voting; passed by the Senate on May 20, 2003: Yeas 31, Nays 0.

Filed with the Secretary of State May 29, 2003.

H.J.R. No. 62

A JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to permit a person to take office without an election if the person is the only candidate to qualify in an election for that office.

BE IT RESOLVED BY THE Legislature of the State of Texas:

SECTION 1. Article XVI, Texas Constitution, is amended by adding Section 13 to read as follows:

Sec. 13. For an office for which this constitution requires an election, the legislature may provide by general law for a person to take the office without an election if the person is the only candidate to qualify in an election to be held for that office.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held September 13, 2003. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the legislature to permit a person to take office without an election if the person is the only candidate to qualify in an election for that office."

SECTION 3. Section 2, H.J.R. No. 61, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held *September 13, 2003* [~~November 4, 2003~~]. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing municipalities to donate surplus fire-fighting equipment or supplies for the benefit of rural volunteer fire departments."

Passed by the House on May 1, 2003: Yeas 138, Nays 0, 2 present, not voting; the House concurred in Senate amendments to H.J.R. No. 62 on May 24, 2003: Yeas 120, Nays 5, 1 present, not voting; passed by the Senate, with amendments, on May 23, 2003: Yeas 30, Nays 0.

Filed with the Secretary of State May 27, 2003.

H.J.R. No. 68

A JOINT RESOLUTION

proposing a constitutional amendment authorizing the Veterans' Land Board to make certain payments

PROPOSED CONSTITUTIONAL AMENDMENTS

H.J.R. 68, § 2

on revenue bonds and to use assets in certain funds to provide for veterans homes and a constitutional amendment relating to the use of income and appreciation of the permanent school fund.

BE IT RESOLVED BY THE Legislature of the State of Texas:

SECTION 1. Subsections (r) and (s), Section 49-b, Article III, Texas Constitution, are amended to read as follows:

(r) Receipts of all kinds of the Veterans' Land Fund, the Veterans' Housing Assistance Fund, or the Veterans' Housing Assistance Fund II that the Board determines are not required for the payment of principal of and interest on the general obligation bonds benefiting those funds, including payments by the Board under a bond enhancement agreement with respect to principal of or interest on the bonds, may be used by the Board, to the extent not inconsistent with the proceedings authorizing the bonds to:

(1) make temporary transfers to another of those funds to avoid a temporary cash deficiency in that fund or make a transfer to another of those funds for the purposes of that fund;

(2) pay the principal of and interest on general obligation bonds issued to provide money for another of those funds or make bond enhancement payments with respect to the bonds; or

(3) pay the principal of and interest on revenue bonds of the Board or make bond enhancement payments with respect to the bonds ~~[if the bonds are issued to provide funds to purchase lands and sell lands to veterans or make home mortgage loans to veterans]~~.

(s) If the Board determines that assets from the Veterans' Land Fund, the Veterans' Housing Assistance Fund, or the Veterans' Housing Assistance Fund II are not required for the purposes of the fund, the Board may:

(1) transfer the assets to another of those funds;

(2) use the assets to secure revenue bonds issued by the Board; ~~[or]~~

(3) use the assets to plan and design, operate, maintain, enlarge, or improve veterans cemeteries; or

~~(4) use the assets to plan and design, construct, acquire, own, operate, maintain, enlarge, improve, furnish, or equip veterans homes.~~

SECTION 2. Section 5, Article VII, Texas Constitution, is amended to read as follows:

Sec. 5. (a) ~~The permanent school fund consists of all land appropriated for public schools by this constitution or the other laws of this state, other properties belonging to the permanent school fund, and all revenue derived from the land or other properties. The available school fund consists of the distributions made to it from the total return on all investment assets of [principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart to said school fund, shall be] the permanent school fund, [and all the interest derivable therefrom and] the taxes [herein] authorized by this constitution or general law to be part of [and levied shall be] the available school fund, and appropriations made to the available school fund by the legislature. The total amount distributed from the permanent school fund to the available school fund:~~

~~(1) in each year of a state fiscal biennium must be an amount that is not more than six percent of the average of the market value of the permanent school fund, excluding real property belonging to the fund that is managed, sold, or acquired under Section 4 of this article, on the last day of each of the 16 state fiscal quarters preceding the regular session of the legislature that begins before that state fiscal biennium, in accordance with the rate adopted by:~~

~~(A) a vote of two-thirds of the total membership of the State Board of Education, taken before the regular session of the legislature convenes; or~~

~~(B) the legislature by general law or appropriation, if the State Board of Education does not adopt a rate as provided by Paragraph (A) of this subdivision; and~~

~~(2) over the 10-year period consisting of the current state fiscal year and the nine preceding state fiscal years may not exceed the total return on all investment assets of the permanent school fund over the same 10-year period.~~

(b) *The expenses of managing permanent school fund land and investments shall be paid by appropriation from the permanent school fund.*

(c) The available school fund shall be applied annually to the support of the public free schools. Except as provided by this section, *the legislature may not enact a [no] law [shall ever be enacted]* appropriating any part of the permanent school fund or available school fund to any other purpose. *The permanent school fund and the available school fund may not [whatever, nor shall the same, or any part thereof ever]* be appropriated to or used for the support of any sectarian school. *The[, and the] available school fund [herein provided]* shall be distributed to the several counties according to their scholastic population and applied in the *[such] manner [as may be]* provided by law.

(d) ~~[(b)]~~ The legislature by law may provide for using the permanent school fund ~~[and the income from the permanent school fund]~~ to guarantee bonds issued by school districts or by the state for the purpose of making loans to or purchasing the bonds of school districts for the purpose of acquisition, construction, or improvement of instructional facilities including all furnishings thereto. If any payment is required to be made by the permanent school fund as a result of its guarantee of bonds issued by the state, an amount equal to this payment shall be immediately paid by the state from the treasury to the permanent school fund. An amount owed by the state to the permanent school fund under this section shall be a general obligation of the state until paid. The amount of bonds authorized hereunder shall not exceed \$750 million or a higher amount authorized by a two-thirds record vote of both houses of the legislature. If the proceeds of bonds issued by the state are used to provide a loan to a school district and the district becomes delinquent on the loan payments, the amount of the delinquent payments shall be offset against state aid to which the district is otherwise entitled.

(e) ~~[(e)]~~ The legislature may appropriate part of the available school fund for administration of ~~[the permanent school fund or of]~~ a bond guarantee program established under this section.

(f) ~~[(d)]~~ Notwithstanding any other provision of this constitution, in managing the assets of the permanent school fund, the State Board of Education may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment, including investments in the Texas growth fund created by Article XVI, Section 70, of this constitution, that persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, acquire or retain for their own account in the management of their affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

(g) *Notwithstanding Subsection (a) of this section, the total amount distributed from the permanent school fund to the available school fund for the state fiscal years beginning September 1, 2003, and September 1, 2004, must be an amount equal to 4.5 percent of the average of the market value of the permanent school fund, excluding real property belonging to the fund that is managed, sold, or acquired under Section 4 of this article, on the last day of each of the 16 state fiscal quarters preceding the regular session of the 78th Legislature.*

(h) Subsection (g) of this section and this subsection expire December 1, 2006.

SECTION 3. The constitutional amendment proposed by SECTION 1 of this resolution shall be submitted to the voters at an election to be held September 13, 2003. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the Veterans' Land Board to use assets in certain veterans' land and veterans' housing assistance funds to provide veterans homes for the aged or infirm and to make principal, interest, and bond enhancement payments on revenue bonds."

SECTION 4. The constitutional amendment proposed by SECTION 2 of this resolution shall be submitted to the voters at an election to be held September 13, 2003. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment relating to the use of income and appreciation of the permanent school fund."

Passed by the House on April 29, 2003: Yeas 141, Nays 0, 1 present, not voting; the House refused to concur in Senate amendments to H.J.R. No. 68 on May 29, 2003, by a non-record vote, and requested the appointment of a conference committee to

consider the differences between the two houses; the House adopted the conference committee report on H.J.R. No. 68 on June 1, 2003: Yeas 142, Nays 0, 3 present, not voting; passed by the Senate, with amendments, on May 26, 2003: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.J.R. No. 68 on June 1, 2003: Yeas 31, Nays 0.

Filed with the Secretary of State June 3, 2003.

H.J.R. No. 84

A JOINT RESOLUTION

proposing a constitutional amendment providing for the filling of a temporary vacancy in a public office created by the activation for military service of a public officer.

BE IT RESOLVED BY THE Legislature of the State of Texas:

SECTION 1. Article XVI, Texas Constitution, is amended by adding Section 72 to read as follows:

Sec. 72. (a) An elected or appointed officer of the state or of any political subdivision who enters active duty in the armed forces of the United States as a result of being called to duty, drafted, or activated does not vacate the office held, but the appropriate authority may appoint a replacement to serve as temporary acting officer as provided by this section if the elected or appointed officer will be on active duty for longer than 30 days.

(b) For an officer other than a member of the legislature, the authority who has the power to appoint a person to fill a vacancy in that office may appoint a temporary acting officer. If a vacancy would normally be filled by special election, the governor may appoint the temporary acting officer for a state or district office, and the governing body of a political subdivision may appoint the temporary acting officer for an office of that political subdivision.

(c) For an officer who is a member of the legislature, the member of the legislature shall select a person to serve as the temporary acting representative or senator, subject to approval of the selection by a majority vote of the appropriate house of the legislature. The temporary acting representative or senator must be:

(1) a member of the same political party as the member being temporarily replaced; and

(2) qualified for office under Section 6, Article III, of this constitution for a senator, or Section 7, Article III, of this constitution for a representative.

(d) The officer who is temporarily replaced under this section may recommend to the appropriate appointing authority the name of a person to temporarily fill the office.

(e) The appropriate authority shall appoint the temporary acting officer to begin service on the date specified in writing by the officer being temporarily replaced as the date the officer will enter active military service.

(f) A temporary acting officer has all the powers, privileges, and duties of the office and is entitled to the same compensation, payable in the same manner and from the same source, as the officer who is temporarily replaced.

(g) A temporary acting officer appointed under this section shall perform the duties of office for the shorter period of:

(1) the term of the active military service of the officer who is temporarily replaced; or

(2) the term of office of the officer who is temporarily replaced.

(h) In this section, "armed forces of the United States" means the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, the United States Coast Guard, any reserve or auxiliary component of any of those services, or the National Guard.